

13 August 1987
OCA 87-3511

MEMORANDUM FOR: D/OP
C/ALD/OGC

LEG
2001 #

FROM: [] OCA/LEG

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SUBJECT: DoD Draft Legislation Raising Ceiling on Military Personnel
and Civilian Employees' Claims Act: Request for Cost Figures

1. Attached are two legislative items forwarded to this office by the Office of Management and Budget (OMB). The first is a draft bill (together with accompanying analysis) prepared by the Department of Defense (DoD) to amend the Military Personnel and Civilian Employees' Claims Act so as to increase from \$25,000 to \$40,000 the ceiling on such claims. The second is a draft letter transmitting the bill to the Congress (Speaker Wright).

2. Besides asking for the Agency's views on these items, OMB has also asked for an estimate of the cost to the Agency of the increased ceiling.

3. In response to the first part of OMB's query, we have advised that the Agency would have no objection to the submission of this draft legislation to the Congress.

4. In order that we respond to the second part of the request, however, we ask that you provide this office with the requisite cost estimate. The figure need not be precise. An estimate based on the number of such claims which have been filed within the past few years would appear to be sufficient.

5. We ask for your response by 19 August 1987. If you have any questions please feel free to contact me or, in my absence, [] Your cooperation is most appreciated.

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Attachments
as stated

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OCA/Leg [] (12 Aug 87)

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A B I L L

To amend the Military Personnel and Civilian Employees' Claims Act to increase from \$25,000 to \$40,000 the maximum amount that the United States may pay in settlement of a claim under the Act.

1 Be it enacted by the Senate and House of
2 Representatives of the United States of America in
3 Congress assembled, That section 3721 of Title 31 is
4 amended as follows:

5 (a) by striking out "\$25,000" in paragraph (b) and
6 inserting in lieu thereof "\$40,000."

7 (b) by deleting paragraph (c) and inserting in lieu
8 thereof:

9 "(c) On paying a claim under this section, the
10 Government is subrogated for the amount of the payment
11 to a right or claim that the claimant may have against a
12 foreign country for the damage or loss for which the
13 Government made the payment."

14 (c) The amendments made by this Act shall apply only
15 to claims arising on or after the date of enactment.

SECTION-BY-SECTION ANALYSIS

To amend the Military Personnel and Civilian Employees' Claims by increasing from \$25,000 to \$40,000 the maximum amount that the United States may pay in settlement of a claim under that Act.

This bill amends Section 3721 of Title 31 of the United States Code concerning administrative settlement of claims by military personnel and civilian employees for incident to service losses or damage to their personal property.

The bill amends paragraph (a) to permit the head of each Federal agency or his or her designee to settle these administrative claims up to a maximum of \$40,000 for all incident to service losses. Paragraph (c), which permitted payment above \$25,000 up to a maximum of \$40,000 only for those losses occurring in a foreign country resulting from an evacuation ordered by the Secretary of State or other competent authority due to political unrest or hostile acts, or for losses resulting from other hostile acts against our personnel and employees, is deleted as now redundant to the losses now covered by section (b). Former subparagraph (c)(2) is made new paragraph (c) to retain the Government's subrogation rights against a foreign country for claims paid resulting from political unrest or hostile acts.

The provisions of this Act take effect on the date of its enactment.

DoD 100-57

Honorable James C. Wright, Jr.
Speaker of the House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

There is forwarded herewith a draft of legislation, "To amend the Military Personnel and Civilian Employees' Claims Act to increase from \$25,000 to \$40,000 the maximum amount that the United States may pay in settlement of a claim under the Act."

The proposed legislation is part of the Department of Defense Legislative Program for the 100th Congress. The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the presentation of this proposal for the consideration of the Congress. The Department of the Air Force has been designated the representative of the Department of Defense for this proposed legislation. The Department of the Air Force, on behalf of the Department of Defense, recommends that this proposed legislation be enacted by the Congress.

Purpose of the Legislation

The Purpose of the proposed legislation is to amend the Military Personnel and Civilian Employees' Claims Act (31 U.S.C. 3721) (hereinafter "the Act") to increase the limit on payments from \$25,000 to \$40,000 for loss of, or damage to personal property incident to service.

The proposed legislation would raise the present limitations on payment for claims under the Act to a level which would treat all military personnel and federal employees equally under the Act, no matter how the individual's loss of property occurred.

Public Law 96-519, enacted 12 December 1980, increased the maximum amount payable under the Act from \$15,000 to \$40,000 per claim, but only for those who had suffered losses in foreign countries arising from an evacuation directed by the Secretary of State or other competent authority due to "an incident of political unrest or hostile act," or arising out of other hostile acts directed at our personnel and employees. Substantially later, P.L. 97-452, enacted 12 January 1983, increased the maximum, for all other incident-to-service claims from \$15,000 to \$25,000.

The basis for the dichotomy in benefits was, no doubt, due to the then great upwelling of public sympathy for our evacuees from Iran, and the victims of the attacks upon our embassies in Iran and Pakistan. Many of our personnel and employees had to flee Iran on short notice abandoning all their personal belongings. Others suffered the added insult of being robbed at gun point while awaiting their air flight from Tehran. All these stories captured our media's headlines and the concern of the American public over a period of many months. As a result, Congress

accorded these individuals, and others who would lose their belongings under similar events, an extra measure of protection in Public Law 97-258 not available to those who lost their property under more ordinary circumstances.

While not the subject of national headlines, a few of our other service members and employees each year suffer major incident to service losses of their personal property in amounts exceeding the \$25,000 maximum protection afforded them under the Act. Such major losses occur through no fault of the individual from such causes as fires in on-base military quarters, fires in warehouses where household goods are stored at government expense while the member is stationed overseas, destruction of moving vans transporting their belongings during permanent change-of-station moves, and even losses at sea. The proposed legislation seeks to end what the Department of Defense perceives as an inequity in benefits accorded our personnel and employees by increasing the maximum amount payable under the Act to \$40,000 for all incident-to-service losses.

While claimants suffering losses in excess of \$25,000 per year are few in number, each incident is a great personal hardship to the individual, and his or her family. Such losses are detrimental not only to the individual's morale, but also to the morale of his or her fellow workers. The estimated added cost of approximately \$500,000 per year is slight in comparison to the perceived benefits. For relatively few extra dollars each year, the government could purchase a great amount of total protection, added peace of mind, increased morale, and an inducement for entering and continuing membership in the Armed Services.

Cost and Budget Data

It is estimated that passage of the proposed legislation would result in the following added costs to the Department of Defense (amounts expressed in millions of dollars):

	<u>FY88</u>	<u>FY89</u>	<u>FY90</u>	<u>FY91</u>	<u>FY92</u>
Total Costs	.5	.5	.6	.6	.6

Sincerely,

Enclosure
Draft Bill